

In the Matter of)
)
Requests for Waiver and appeal of)
Decisions of the)
Universal Service Administrator by)
)
Universal Service Administrative Company) DA 15-1105
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

December 17, 2015

Request for Waiver by Alma d'Arte Charter School

Alma d'Arte Charter School (Alma d'Arte) respectfully requests a waiver of the deadline to invoice USAC for the below referenced application and FRN in according with 47 C.F.R § 1.106(b)(1) and/or (b)(2).

Alma d'Arte asks the Commission to waive applicable rules and/or procedures in this instance and restore funding to Alma d'Arte. This appeal is timely filed within 60 days of the Administrator's decision.

RE: Form 471 Application Number: 748881
FRN: 2022442
BEN: 16055122

Introduction:

In the E-Rate Modernization Order, the FCC recognized the critical role the E-Rate program plays in the lives of communities and the importance of ensuring the program sufficient equitable and predictable support for high speed connectivity to schools and libraries.¹ In the same order, the FCC Amended § 54.514, designating specific deadlines for invoice submission and allowing for one Invoice Deadline Extension requested in advance of the deadline. According to the Code of Federal Regulations, 54.514, which includes rules on Payment for discounted services,

¹ In the Matter of Modernizing the E-rate Program for Schools and Libraries WC Docket No. 13-184 paragraph 4.

Paragraph (a) which pertains to the Invoice filing deadline will not become effective until July 1, 2016.²

Background:

Alma D'Arte received services from Plan B Networks, Inc. as part of an agreement for installation of cabling at the school. As per FCC rules, Alma D'Arte paid the non-discount portion of the bill. Plan B Networks agreed to invoice USAC via the SPI method of invoicing.

Plan B submitted two SPI invoices. Both were denied by USAC. The first, invoice 1922067 was denied on February 20, 2014. The reason was listed as Service Cert Received but Invalid.

[USAC's webpage](#) includes a section with detailed explanation of some error codes used to identify Passed - \$0 invoices. Unfortunately the error description provided to Plan B in their initial invoice to USAC is not listed on USAC's website.

Plan B submitted a second invoice which was denied on October 29, 2014. The second submitted invoice was denied because the deadline had passed.

It is unknown if Plan B submitted an invoice extension request. However, following the second denial Plan B, began asking Alma D'Arte to pay them the entire amount of the billed services because USAC would not pay the invoices billed to them.

Alma d'Arte had no choice but to request an invoice deadline extension, which was denied by USAC. A subsequent appeal, submitted on September 1, 2015 was denied by the Administrator.

Discussion:

We have read about the FCC's commitment to provide "sufficient, equitable and predictable support." Alma d'Arte was funded for cabling that provided infrastructure for broadband. The FCC has specified such services as aligned with their goals for the future of the E-Rate program. The application was approved by the Administrator. It should follow that support in the form of payment to the service provider is the ultimate proof of the FCC's commitment.

No such payment happened.

Although it is understandable that rules should be in place concerning the proper way to invoice USAC for eligible services, USAC's current practice of rejecting invoices without allowing recourse or corrections is punitive, and the antithesis to the FCC's commitment to predictable support. This is a situation in which there was not a rule violation – simply some sort of error which USAC did not even define.

² See Code of Federal Regulations, 54.514 http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=1f9d926662f6008f1a156305f6681843&mc=true&n=pt47.3.54&r=PART&ty=HTML#se47.3.54_1514

Furthermore, USAC's denial of the invoice deadline extension and subsequent appeal was based on a rule that does not take effect until July 1, 2016. Therefore at the time of the request, the deadline was a procedure and not a rule.

A rule allowing one deadline extension request of 120 days is currently in effect. However, this rule was enacted after the deadline had passed for submitting invoices on the above referenced FRNs.

Alma d'Arte demonstrated good faith by paying their non-discounted portion and responding to the service certification provided to them. Yet they are being punished because the service provider did not submit a subsequent invoice to USAC before the invoice deadline. In the case of a SPI invoice, the applicant does not receive notice of invoice rejections so they were unaware that the invoice was rejected until the service provider told them.

In DA 15-875 released July 30, 2015, the FCC granted requests for Invoice Deadline Extension waivers to schools who could demonstrate good faith in complying with the invoicing deadline. In footnote 7 of DA 15-875, reference was made to *Requests for Review of the Decisions of the Universal Service Administrator by Canon-McMillan School District et al.*; para. 6. In paragraph 6, the Order states that claims by applicants of staff changes or inadvertent errors on the part of the staff was sufficient evidence and specifically, "We note that those tasked with working on E-rate applications are typically school administrators, technology coordinators, teachers and librarians who may have little experience with invoice requirements for the E-rate program."³ Alma d'Arte apparently made such an error on the service certification but was not given timely information or feedback so that the issue could be moved forward and corrected.

Now funding has been revoked.

Conclusion:

Alma d'Arte humbly requests that the deadline to submit invoices for application 748881, FRN 2022442 be extended to allow re-submission of the invoice and opportunity to understand the error that led to denial of the original invoice so that Plan B who did provide the services may be paid.

Alma d'Arte did not request an invoice deadline extension because they were unaware that one needed to be requested until the deadline had passed.

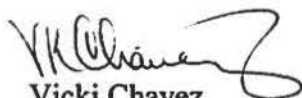
In the Alaska Gateway decision released September 14, 2006, the FCC recognizes the limitations of school district staff and given that the applicants missed a procedural deadline and there was no evidence of waste, fraud or abuse and denial would inflict undue hardship on the applicants, relief was granted to applicants. In this case, a procedural deadline was missed, and denial will indeed inflict undue hardship on the applicant who attempted to follow the rules as well as they

³ FCC/DA-08-2385, para. 6.

could, considering limited knowledge of the E-Rate program and limited communication from the Administrator.⁴

Consistent with the Alaska Gateway decision, we respectfully request that the FCC consider provision of outreach by USAC to applicants who have not submitted invoice extension requests and/or invoices by the deadline. USAC issues Urgent Reminder Letters to applicants who have not certified a Form 486 by the deadline and they are given 20 days to submit and certify the Form 486. Such a procedure with regards to invoicing would reduce the need for appeals and provide applicants some relief in cases where an invoice has been submitted but the Administrator does not pay it for one reason or another. At minimum, some outreach in the case of errors would do much for applicants who are trying to understand this very complicated program.

Respectfully submitted by,



Vicki Chavez

Executive Director

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⁴DA 06-1871 regarding Requests for Review and Waiver of the Decision of the Universal Service Administrator by Alaska Gateway School District Tok, AK, et al. File Nos. SLD-412028, et al.; Para. 7.